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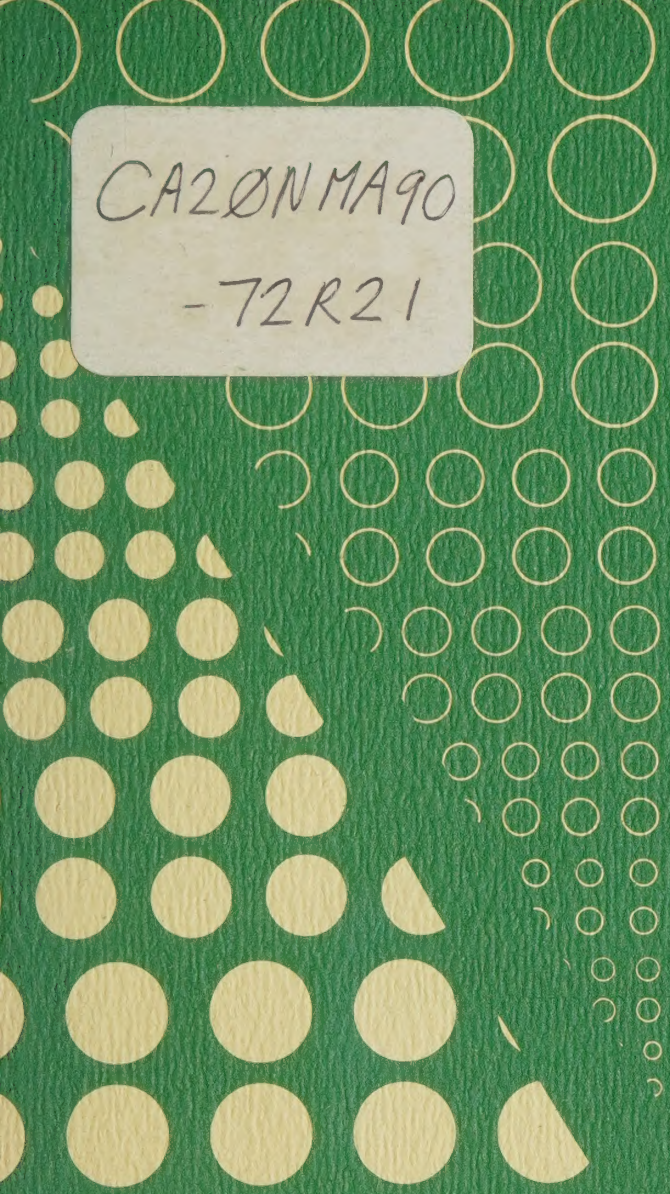

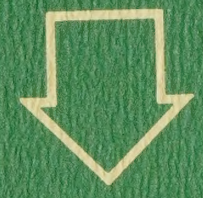

report of the committee on golf course assessment and taxation

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Report of The Committee on Golf Course Assessment and Taxation

ASSESSMENT DIVISION
DEPARTMENT OF MUNICIPAL AFFAIRS

The Honourable W. Darcy McKeough,
Minister

W. H. Palmer,
Deputy Minister

February 1972

Acknowledgements

Among those in the Assessment Division of the Department of Municipal Affairs and those in the Ontario Golf Association, the Committee wishes to thank Lewis Greensword, the former chairman of the Committee, and Alf Johnson, research adviser, for their assistance and co-operation.

The Committee is especially grateful to Don Taylor, Director of the Community Planning Branch, for his contribution, and David Montgomery of the Assessment Standards Branch who acted as Secretary for the Committee's meetings.

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February 10, 1972.

The Honourable W. Darcy McKeough
Minister of Municipal Affairs
Parliament Buildings,
Toronto, Ontario.

Dear Mr. McKeough:

I take pleasure in forwarding to you the views and recommendations of the Committee on Golf Course Assessment and Taxation.

The members of the Committee wish to express their gratitude for the opportunity to present their opinions on this very important issue.

Yours sincerely,

A. N. MacKay,
Chairman.

Copy of an Order-in-Council approved by His Honour the Lieutenant Governor, dated the 28th day of May, AD. 1970.

Upon the recommendation of the Honourable the Minister of Municipal Affairs, the Committee of Council advise that pursuant to Section 7 of The Department of Municipal Affairs Act, a Committee on Golf Course Assessment and Taxation be appointed.

The purpose of the Committee will be as follows:

(1) to enquire into all aspects of the assessment of golf courses for purposes of local taxation.

(2) to make recommendations as to a uniform method of valuation.

(3) to suggest the manner in which taxes should be levied based on those uniform valuations.

The members of the Committee will be as follows:

Chairman

Mr. L. H. Greensword	— Committee Secretary, Assessment Division, Department of Municipal Affairs

Secretary

Mr. D. Montgomery	— Assessment Division, Department of Municipal Affairs

Representing the Ontario Golf Course Assessment Association:

Mr. J. H. Thomson, Q.C.	— Miller, Thomson, Hicks, Sedgewick, et al.
Mr. R. D. Osborne, Q.C.	— Arnott and Osborne
Mr. R. J. Pezzack	— Walker, Rice and Pezzack
Mr. G. Frost	— Golf Leaseholds Limited
Mr. K. Nisbet	— Westview Golf Course

Representing the Ontario Association of Rural Municipalities:

Mr. C. A. Keeley	— Clerk, County of Essex
Mr. S. Brown	— Clerk, County of Kent

Representing the Association of Counties and Regions of Ontario:

Mrs. Caroline Ion

Representing the Association of Municipal Clerks and Treasurers of Ontario:

Mr. D. C. Schaefer	— Treasurer, City of Waterloo
Mr. M. R. Sather	— Treasurer, City of Guelph
Mr. E. A. Barton	— Treasurer, Township of Markham

Representing the Ontario Municipal Association:

Mr. F. Wansbrough	— Mayor, City of Windsor
Mr. B. V. MacKey	— Mayor, City of Oshawa
Mr. I. A. Paisley	— Controller, North York
Mr. R. A. Arnold	— Treasurer, Borough of Scarborough

Representing the Association of Ontario Mayors and Reeves:

Mr. J. Kehoe	— Councillor, Town of Mississauga
Mr. H. E. Black	— Mayor, Town of Pelham
Mr. G. A. Williams	— Reeve, Township of Vaughan

Representing the Board of Trade of Metropolitan Toronto:

Mr. D. Mansur

Summary of Principal Recommendations

The Committee has made two types of recommendations — those which can be implemented with existing legislation, and those which require changes in the golf course principle as contained in Section 31 of The Assessment Act.

In the first instance, the Committee believes that more direct use of existing planning controls can remedy a large part of the taxation problem. This problem arose where golf course owners indicated they could not afford taxes based on market value assessments which reflected the value of their lands in other more intensive uses. More rigorous zoning control might force purchasers to consider the income to be derived from the game of golf and work to lower the selling prices of golf course lands. In this sense, zoning would relieve tax pressures which result from market value assessment, and make fixed assessment agreements redundant.

Consequently, the Committee proposes that the Minister (a) recommend a separate golf course zoning category to municipalities, and (b) consider the need for all forthcoming official plans to make golf courses the subject of a special designation, and to include policies which express a clear intent to maintain golf courses as an important form of open space.

With regard to the golf course principle, the Committee believes it should serve as an option to golf course owners in the event that zoning does not have its desired effect. The existing fixed assessment legislation, however, has two important weaknesses which have discouraged more widespread acceptance and participation. First, the unlimited accumulation of deferred taxes, the taxes owing on the difference between the fixed assessment and the market value assessment, can rapidly erode an owner's equity in the land. The Committee recommends that these taxes, and the interest on these taxes, only accumulate for the first ten years of the agreement. After this period, deferred taxes and interest become a decreasing portion of the equity, assuming market values continue to increase. This should encourage golf course owners to maintain their land in golf use for substantial lengths of time.

Second, the golf course owners could not obtain fixed assessments from some municipalities and had no right of appeal to a higher authority for relief. The Committee feels that the logical agency to settle appeals of this nature is the Ontario Municipal Board, and, consequently, recommends that where the golf course owners or municipalities fail to reach an agreement, either party may approach the Ontario Municipal Board to hear and decide the matter.

Formation of The Committee

The Issue

In the fall of 1969 certain municipalities in York and Peel Counties issued assessment notices which levied large increases in assessments of lands used as golf courses. These increases were a result of County-wide reassessments at market value. A survey and analysis of such assessments for 50 golf courses in those Counties indicated an average increase of between 25 and 30 times the assessment figures of the previous year. It was apparent that, unless some countervailing action was taken, golf courses would be faced with substantial increases in taxes, despite anticipated reductions in the mill rates to adjust for the increase in assessments. The golf course owners indicated that these taxes could not be supported by the annual income derived from land used for the game of golf.

The scope of the problem, whose symptoms were first seen in York and Peel Counties, was expanded as a result of Provincial action in the field of real property assessment. In December 1969 the Provincial Government had enacted legislation which gave the Province responsibility for the assessment of the local property tax base, as part of a general program for the reform of municipal finance. The purpose of this reform was to develop an equitable property tax base by assessing all property in Ontario at market value by 1975. The York-Peel situation indicates that this legislation is critical to the economic viability of most golf courses, particularly public courses.

There are approximately 465 golf courses in Ontario of which approximately 100 are fully private and 365 are open to the public. Public courses are especially sensitive to increased costs. Their success or failure as businesses or non-profit clubs depends primarily on their ability to provide green fees or membership dues which are sufficiently attractive to the general public seeking golf as recreation. Consequently, the tax implications of increased assessments, like those in York and Peel Counties, could effect substantial increases in the fee structure and seriously curtail the game of golf as a rapidly growing form of recreation.

The response to this situation came immediately from owners of golf courses located primarily in York and Peel (most other regions had not been reassessed) who formed an association called the "Ontario Golf Course Assessment Association". This new association had the full support of the Ontario Golf Association, a non-profit corporation formed in 1923, to organize, regulate, and promote the game of golf in Ontario, which currently represents about 275 golf courses and approximately 150,000 golfers throughout Ontario. Working together, the two associations

registered their objections with the Minister of Municipal Affairs. These objections were specifically directed against the revealed effect of market value assessment as the basis of taxation.

The Golf Course Principle

The special problems of golf courses are not new to real property taxation. In response to similar issues in 1955, the Province introduced an amendment to The Assessment Act which permitted a local municipality to enter into an agreement with the owner of a golf course under which he would pay real property taxes based on a fixed assessment. Such agreements provide that when, for any reason, the agreement relating to all or part of the golf course property was terminated, the owner had the choice of selling that land to the municipality for the amount of its fixed assessment, or of paying the full amount of taxes that would have been payable had there been no fixed assessment, together with interest. Until 1966, the golf course principle, as it was called, included buildings and structures on the propetry and the land on which they were situate. In that year the legislation was amended to exclude these buildings and lands, which were subsequently assessed in the usual manner.

Although the general intent of the golf course principle was widely supported, only 25 of 475 golf courses in Ontario had entered into fixed assessment agreements by the time of the York-Peel difficulty in 1969. Part of this failure to attract wider participation and acceptance is readily explained in terms of location; i.e., many golf courses are located in low land value areas where property taxes based on assessments derived in the usual manner are quite reasonably supported by annual income. On the other hand, it appears that fixed assessments failed where they were needed in high land value areas, particularly the large urban areas of the Province, because of certain weaknesses of the legislation, the most important being:

(a) The accruing taxes and interest threaten a substantial portion of an owner's equity if he holds the land in golf course use for an appreciable length of time.

(b) The owners of golf courses could not obtain agreements from some municipalities and had no right of appeal to a higher authority for relief.

(c) The legislation is unclear as to the effect of expropriation by an authority other than the municipality.

With regard to (b), several municipalities indicated that their reluctance to enter into an agreement resulted from a concern for a loss of revenue (some felt that the amount of the repayment from a fixed assessment was insufficient), and from a lack of general guidelines in ascertaining a fair amount for a fixed assessment.

The legislation which gave the Province responsibility for real property assessment became operative in January of 1970. In

response to considerable public expression of concern from the golf course associations and the golfing public, the Minister announced the appointment of a 17 man committee to investigate and make recommendations on the issues. The Committee commenced its sittings in March of 1970.

Terms of Reference

When the Minister announced the formation of the Committee, he carefully specified the Government's philosophy of municipal tax reform and his conception of the Committee's role in this regard.

He stated that the purpose of the reform is to strengthen the financial position of municipalities by gradually eliminating exemptions of any kind. In this context, it is anticipated that municipalities could make yearly grants to a number of specified types of property, including those that are currently exempt. This procedure would encourage a yearly review of all properties, and make taxpayers aware of the value of all properties in the municipality and the extent to which some are subsidized.

The fundamental component of this reform is a uniform real property tax base. It is the Government's intention to develop this tax base by assessing all properties on a common standard — market value. This is defined in Section 27 of The Assessment Act:

(1) Subject to this section, land shall be assessed at its market value.

(2) Subject to subsection 3, the market value of land assessed is the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.

Subsection 3 is the only exception in the Act to the principle of market value, and, in the opinion of many observers, is the source of many tax inequities. This subsection gives farms special tax consideration by providing that the market value of farm lands and buildings is the *value for farming purposes only*, and that in determining this value, "consideration must not be given to sales of lands and buildings to persons whose principal occupation is other than farming". In terms of the Government's philosophy, it is felt that greater equity would be achieved if this special consideration were provided by adjusting the tax after assessing at market value. This would provide a common base or standard to compare the effects of exemptions.

The Minister supported this view in a reply to the suggestion that golf courses should receive treatment similar to farms:

> Assessing golf course land at a value for golf use . . . would constitute, in effect, a subsidy for golf courses at a time when it is the Government's stated intention to eliminate exemptions and other special considerations wherever possible.*

*Source: Letter from W. Darcy McKeough, Minister of Municipal Affairs, to R. D. Osborne, Solicitor, Ontario Golf Course Assessment Association, December 17, 1969.

This effectively ruled that the golf course issue should be treated as a tax problem, not an *assessment* problem, and that the Committee's recommendations should reflect this point-of-view.

With regard to fixed assessment agreements, the Minister indicated that they offered a form of tax relief which was intended to enable municipalities to acknowledge the social, ecological, and aesthetic benefits that golf courses confer on the areas in which they are located. These benefits are particularly important in urban settings. As part of its task, this Committee should examine current problems in the fixed assessment legislation, and, as far as possible, make recommendations that meet the requirements of both municipalities and golf course owners.

Review of Procedure

The Committee has held twelve meetings, from March, 1970 to August, 1971. These meetings were primarily addressed to reviews of discussion papers prepared by four subcommittees — valuation methods, fixed assessment, ownership, and statistics — which were formed from within the Committee membership. Much of the information generated by the subcommittees is used throughout this report. Other, more detailed information such as golf course statistics which were collected with the co-operation of the Ontario Golf Association, and a study of the market value of golf courses, which was carried out in co-operation with the Assessment Division of the Department of Municipal Affairs, is available through the Committee files at the Department of Municipal Affairs.

In addition to its own surveys and studies, the Committee heard representations from a number of golf courses and received briefs from golf equipment manufacturers. The Committee also worked in close cooperation with the Community Planning Branch of the Department of Municipal Affairs which was asked to prepare a special study of golf course zoning.

In June, 1971, and subject to the minority opinion in Appendix 4, the Committee reached a consensus and agreed upon the recommendations in this report.

Recommendations

The Committee's recommendations attempt to satisfy three related objectives.

First, the Committee is attempting to preserve a scarce resource in a rapidly urbanizing society — open space. As one form of open space, golf courses are a major source of large tracts of land in urban areas whose loss can hardly be afforded.

Second, the Committee is attempting to protect the game of golf as a popular form of recreation. Like most other forms of recreation, the level of participation is dependent on ease of access (proximity to a market) and a fee structure that is within the means of the golfing community at large. Unlike most other forms of privately-owned recreation, golf courses must meet these requirements with large, expensive tracts of land.

Third, the Committee is attempting to recommend courses of action which offer long-run solutions to the problem and are realistic in terms of the Government's philosophy.

The recommendations are presented under two main headings. The first heading, *Golf Course Zoning,* recommends a specific golf course zoning category which is intended to encourage buyers and sellers to establish golf course land prices which are commensurate with the type of use and to encourage a thorough review of golf course land use changes. The second heading, *Revised Golf Course Principle,* includes recommendations for a series of changes in the golf course principle as contained in Section 31 of The Assessment Act. These changes offer incentives to golf course owners to retain their lands in golf course use under a system of market value assessment.

Golf Course Zoning

The golf course issue arose where golf course owners could not afford taxes based on assessments which reflected the value of their land in other more intensive uses. The suggestion is that buyers in such a market are paying land prices which are higher than would be expected if the buyers had considered only the potential net income of a golf course business. In this sense, golf course land is not always selling at a value for golf use.

The Committee felt that this investment philosophy was primarily a result of inadequate land use control. More rigorous control might force purchasers to consider the income to be derived from the game of golf and, consequently, work to lower the selling prices of golf course lands. If this indeed occurred, it would obviate the need for fixed assessment agreements.

When this was proposed, the Committee approached the Community Planning Branch of the Department of Municipal Affairs

which is responsible for administering the Ontario Planning Act. The Director of this Branch was extremely receptive to the concept and wrote to the Chairman of the Committee as follows:

> It is our view that a distinct zoning category for Golf Courses is justified on planning grounds. A separate zoning would recognize the unique character of an open space use which in most cases is open to the general public only under fairly strict control. It is, by its nature, a low intensity recreational use and because of its landscaping and design performs valuable aesthetic and ecological functions particularly in an urban area. These features set it apart from most of the remainder of public open space uses.
>
> Because of the general contribution to the urban environment made by Golf Courses this Branch would welcome any change in assessment practice that would give an incentive to the owners to maintain their land as a golf course.

He added that this zoning category would also ensure that golf course land does not change use without thorough study and discussion. In this sense, rezoning could only be justified where there are strong economic reasons for change and where the effect of rezoning would not be detrimental to overall land use requirements in the municipality.

Subsequently, representatives of the Committee and the Community Planning Branch worked to develop a golf course zoning control, and to establish procedures to implement such control. This resulted in the suggestion that golf courses be the subject of a specific designation and specific policies in official plans which would be implemented by a zoning by-law under Section 30 of The Planning Act. Such designation and zoning might form part of the original official plans and implementing zoning by-laws, or might be introduced by amendment to the plans and by-laws.

The study team suggested the following golf course zoning definition which the Committee recommends:

> *A golf course is a parcel of land predominantly used for the playing of the game of golf. A parcel of land so zoned shall consist of at least 40 acres, shall be laid out and used for the playing of the game of golf, and shall provide for a minimum playing distance of not less than 1500 yards.*

With regard to the rights of golf course owners under planning legislation, there are provisions under Section 14.(3) and 30.(19) of The Planning Act to initiate action to obtain zoning or alter a specific designation if the municipality refuses to do so.

Section 14.(3) reads:

> *Where any person requests the council to initiate an amendment to the official plan and the council,*
>
> *(a) refuses to propose the amendment; or*
>
> *(b) fails to propose the amendment within thirty days from the receipt of the request, such person may request the Minister to refer the proposal to the Municipal Board.*

Section 30.(19) reads:

> *Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section, or any by-law deemed to be consistent with this section by sub-section 3 of Section 13 of The Municipal Amendment Act, 1941, is refused or the council refuses or neglects to make a decision thereon within one month after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and dismiss the same or direct that the by-law be amended in accordance with its order.*

There are also procedures under the Act for objection and appeal if a designation or zoning is imposed against the wishes of golf course owners.

The Committee recommends that:

> *The Minister of Municipal Affairs recommend a separate golf course zoning category to municipalities, and encourage all municipalities to implement this golf course zoning category in their jurisdictions; and,*
>
> *The Minister consider the need for all forthcoming official plans to make golf courses the subject of a special designation, and to include policies which express a clear intent to maintain golf courses as an important form of open space.*

Revised Golf Course Principle

Early in the Committee proceedings there was considerable debate about the overall effectiveness of fixed assessment agreements. When golf course zoning was later proposed as an alternative solution to the problem, some of the Committee members felt that this zoning would adequately relieve tax pressures and make fixed assessment agreements redundant. However, after some discussion and study it was decided that the golf course principle in a revised form should be retained in order to ensure that golf course owners receive a reasonable tax in the event that zoning did not have the desired effect of establishing land values commensurate with golf use. Consequently, golf course owners would have the option of obtaining zoning alone (in anticipation of lower market values and, therefore, lower taxes), or they could also enter into fixed assessment agreements to ensure reasonable annual taxes, despite the possibility of a large burden of deferred taxes and the interest on these taxes.

In addition, the Committee decided that the golf course principle would provide a useful vehicle for encouraging municipalities to apply a Golf Course Zoning category in their by-laws. This is accomplished by including the word "zoned" in that part of the legislation which defines golf courses.

The Committee recommends that:

> *For the purpose of obtaining a fixed assessment agreement, Section 31 (1) of The Assessment Act be changed to read: 'Any*

local municipality may enter into an agreement with the owner of land zoned as a golf course for providing a fixed assessment for the land occupied as a golf course, but not including the part of the land actually occupied by any building or structure or such building or structure, to apply to taxation for general, school and special purposes, but not to apply to taxation for local improvements.'

It was earlier mentioned (p. 5) that there were two objections to the golf course principle as currently legislated — the lack of any rights of appeal where municipalities refused to enter into agreements, and the unlimited accumulation of debt from deferred taxes and interest.

In respect to the right of appeal, the Committee felt that the logical agency to settle appeals of this nature would be the Ontario Municipal Board.

The Committee recommends that:

Where a municipality fails or refuses to hear an application for a fixed assessment within 60 days from the date on which the application to the municipality is sent, the owner of the golf course may apply to the Ontario Municipal Board to hear and decide the matter; and,

where a municipality and owner of a golf course fail to reach an agreement within 90 days from the date on which the application to the municipality is sent, the municipality and/or the owner may apply to the Ontario Municipal Board for a decision.

The matter of deferred taxes and interest was more difficult to resolve. The Committee recognized that the taxes on the difference between a fixed assessment and an annually updated market value assessment could rapidly erode an owner's equity in the land if the interest were allowed to accumulate for an unlimited term. The obvious way to solve this problem is to limit the time over which debt can accumulate; this, however, involves a difficult decision as to the length of the limitation period.

In order to gain a greater understanding of the factors to be considered, the Committee projected the growth rate of deferred taxes and interest under various assumptions. These projections are shown in the accompanying table for three levels of market value.

Assumptions:

1. A doubling of land values over the next ten years.
2. A tax rate of 25 mills.
3. An interest rate of 8 per cent.
4. Base year land values of $12,000, $3,000 and $1,000 per acre (Case 1, 2 and 3 in the table).
5. Corresponding fixed assessments of $3,000, $1,500 and $750 per acre.

The percentages in the table show deferred taxes and interest both as a per cent of total market value, and as a per cent of capital gain in the fifth, seventh, and tenth years of a fixed assessment agreement. In Case 1, for instance, where land values increase from $12,000 to $24,000 over a ten year period, deferred taxes and interest amount to 24 per cent of the market value and 48 per cent of the capital gain. These percentages are progressively lower in Cases 2 and 3.

Using all but one of the assumptions of Case 1 in the table, the companion diagram takes a slightly different approach by projecting deferred taxes and interest for all possible increases in market value, to a maximum of 200 per cent over ten years. For example, if the change in market value is ten per cent over ten years, deferred taxes and interest amount to roughly 28 per cent of the market value and 250 per cent of the capital gain. If the change is 200 per cent, deferred taxes and interest amount to about 18 per cent of the market value and 20 per cent of the capital gain.

After some debate over these figures, it was proposed that *ten years* be the length of the limitation period after which the deferred taxes and interest would cease to accumulate. The Committee believes that this will encourage golf course owners to remain in business for a substantial length of time without exacting an unacceptably harsh penalty on any potential capital gain. This is certainly the case if owners keep the land in golf use for longer than ten years when the deferred taxes and interest become a decreasing portion of the equity, assuming land values continue to increase. For example, if the land value in Case 1 were to double from the tenth to the twentieth year, (from $24,000 to $48,000), deferred taxes and interest would drop from 24 to 13 percent of market value, and from 48 to 17 per cent of the capital gain.

The Committee recommends that:

> *When an agreement is for any reason terminated as to the whole or any part of the lands to which the fixed assessment agreement relates, the owner shall pay to the municipality that amount or portion of the amount debited against the golf course for that period of time commencing with the effective date of the agreement and ending with the effective date of termination or at the expiration of the 10th year of the agreement, whichever occurs first.*

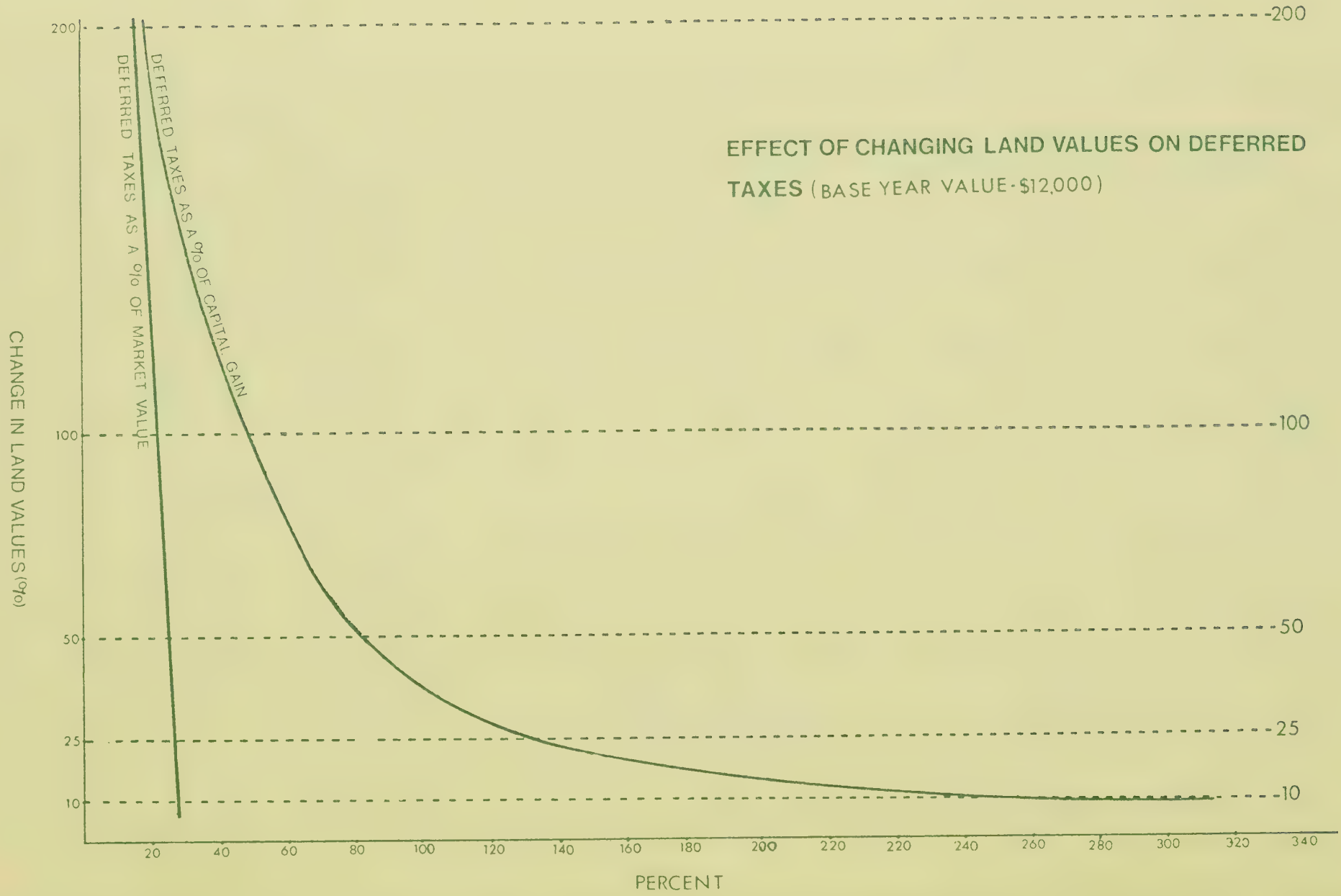
The foregoing are the major recommendations of the Committee which relate to changes in the golf course principle. It is worth noting that the Province of Quebec has instituted a similar procedure with regard to the golf course principle.*

They have placed a ten year limitation period on deferred taxes and interest; this period is taken as the ten years immediately preceding the year in which the land is no longer used as a golf

*Second Session, 29th Legislature, National Assembly of Quebec, Bill 48, Real Estate Assessment Act, 1st Reading.

The Growth Rate of Deferred Taxes Under a Fixed Assessment Agreement

	MARKET VALUE INCREASE		Total Deferred Taxes and Interest as a Percentage of Market Value			Total Deferred Taxes and Interest as a Percentage of Capital Gain		
	Land Value for First Tax Year	Land Value for Tenth Tax Year	5 Yr.	7 Yr.	10 Yr.	5 Yr.	7 Yr.	10 Yr.
CASE 1	$12,000 Per Acre	$24,000 Per Acre	10.9%	15.9%	24.2%	32.7%	38.5%	48.4%
	Fixed Assessment of $3,000/acre							
CASE 2	$3,000 Per Acre	$6,000 Per Acre	6.9%	10.9%	16.5%	20.6%	26.6%	33.0%
	Fixed Assessment of $1,500/acre							
CASE 3	$1,000 Per Acre	$2,000 Per Acre	5.6%	8.8%	14.5%	16.7%	21.3%	29.0%
	Fixed Assessment of $750/acre							


EFFECT OF CHANGING LAND VALUES ON DEFERRED TAXES (BASE YEAR VALUE-$12,000)
DEFERRED TAXES AS A % OF MARKET VALUE
DEFFRRED TAXES AS A % OF CAPITAL GAIN
CHANGE IN LAND VALUES (%)
200
100
50
25
10
20
40
60
80
100
120
140
160
180
200
220
220
240
260
280
300
320
340
PERCENT

course. As mentioned earlier, our Committee feels there is a greater incentive for owners to maintain land in golf use if the limitation period is placed in the first ten years of the agreement, after which the deferred taxes and interest become a decreasing portion of the equity.

The Province of Quebec has also placed a maximum value on the amount of the fixed assessment. On this point, our Committee feels that the amount of fixed assessment should be a matter of discussion between the municipality and the golf course, rather than a matter for legislative regulation. In this regard, we have itemized, in Appendix 3, some general guidelines for deriving fixed assessments.

The Committee also recommends the following procedural changes as they relate to the golf course principle. These and the major recommendations are included in *Appendix 2.*

The Committee recommends that:

> *The clerks of municipalities (a) send a list of all existing agreements to the assessment commissioner by January 15th of each year, (b) inform the assessment commissioner of all new golf course zoning by-laws and all new fixed assessment agreements as they become approved, (c) send a copy of all golf course zoning by-laws and fixed assessment agreements as soon as they take effect, and (d) inform the assessment commissioner of the termination of any agreements within ten days of the effective date of termination.*

It was discovered during the Committee proceedings that there was some confusion among municipalities about accounting methods for fixed assessment agreements. It was felt necessary in some cases to budget for the amount of taxes not collected, i.e., the amount accruing on the difference between the fixed assessment and the market value assessment, which could, in some municipalities, have a serious impact on the mill rate and shift the burden of golf course taxes to the rest of the taxpayers.

The Committee recommends that:

> *For the purposes of municipal levies, (Section 302, Municipal Act, R.S.O. 1970, c. 284) the fixed assessment is the ratable assessment.*

With regard to administration of the deferred taxes and interest incurred under a fixed assessment agreement, the Committee recommends that:

> *The owner may, upon reasonable notice, pay any portion of the deferred taxes and interest at any time during the life of the agreement.*
>
> *Where levies are apportioned for any purpose, the deferred taxes and interest shall be treated as if they were exempt from taxation.*
>
> *The payments of deferred taxes and interest received from the golf course owner shall be distributed among the bodies for*

which the municipality is required to levy in the proportion that the levy of each body bears to the total levy.

The assessment commissioner enter each year on the assessment roll both the market value assessment and the fixed assessment.

These are the recommendations for changes to the existing legislation which, if implemented, will serve as the basis for all new agreements. This in turn raises the question of the status of existing agreements.

The Committee believes it necessary to provide some mechanism which will permit those golf courses with fixed assessment agreements under former and existing legislation to participate in the benefits. Consequently, the Committee recommends that:

At the option of the golf course owner, existing fixed assessment agreements may be terminated and new agreements entered into with the deferred taxes and interest being carried forward as a debt due and payable under the terms of the new agreement.

From the municipal standpoint, existing agreements which are not terminated create a special tax problem in terms of Provincial reassessment in 1975. At that time all assessments will be entered on the rolls at market value and, on this basis, new mill rates calculated. For example, the tax rate for golf courses in Scarborough, where assessments are currently below market value, is 100.79 mills; with the introduction of assessments at 100% of market value in 1974, it is anticipated that this tax rate will drop to 25 or 30 mills. If no special provisions are made, golf courses with fixed assessments would then pay one-quarter to one-third less taxes because their fixed assessments are not affected by reassessment. This situation was certainly never envisaged when the fixed assessment legislation was first drafted in 1955 and later amended in 1966.

The Committee believes that the Province should at least ensure that the taxes paid under market value assessment are equal to taxes which were paid prior to market value assessment. To this end, the Committee recommends that:

The amounts of all fixed assessments under golf course fixed assessment legislation shall be amended by municipalities on or after 1st January 1975, but not later than 31st December 1975. Each amendment shall be made in proportion to changes in the mill rate at the time of market value reassessment.

These recommendations are included in the draft legislation (Appendix 1) as Section 31 (a).

Provincial Participation in the Purhase of Golf Course Lands

There was a minority opinion in the Committee that official plans and zoning by-laws do not have a long-term or permanent effect on open space land uses, and would not have a long-term effect in

preserving the game of golf. This opinion held that a long-term solution could only be achieved through the provision of Provincial funds to acquire existing golf courses if they are abandoned and offered for sale, and to plan and acquire land for future golf course demands.

The majority of Committee members do not feel that a recommendation of this nature is within the Committee's terms of reference; however, they feel that the opinion of the minority should be recorded. Consequently, the minority view is set out in *Appendix 4* supporting those recommendations in the belief that the subject matter lies within the terms of reference of the Committee.

APPENDIX 1

Committee on Golf Course Assessment and Taxation Submission for Study

Draft of Section 31, Assessment Act

(1) Any local municipality may enter into an agreement with the owner of land occupied and zoned as a golf course for providing a fixed assessment for the life of the agreement for the land occupied and zoned as a golf course, but not including the part of the land actually occupied by any building or structure or such building or structure, to apply to taxation for general, school and special purposes, but not to apply to taxation for local improvements, provided the owner of the golf course applies for any such agreement to the municipality in writing by registered mail.

(2) (a) Where a municipality fails or refuses to hear an application for an agreement under subsection (1) within 60 days from the date on which such application is mailed to the municipality, the owner of the golf course may apply to the Ontario Municipal Board to hear and decide the matter of such agreement provided the application to the Board is sent by registered mail within 90 days from the date on which the application under subsection (1) is mailed to the municipality;

(b) where a municipality and owner of a golf course fail to reach agreement under subsection (1) within 90 days from the date on which the application is mailed to the municipality, the municipality and/or the owner of the golf course may apply to the Ontario Municipal Board to hear and decide the matter of agreement provided the application to the Board is sent by registered mail within 120 days from the date on which the application under subsection (1) is mailed to the municipality.

(3) The Clerk of the municipality shall:

(a) on or before January 15th of each year send a list of all existing agreements made under subsection (1) in the municipality to the assessment commissioner;

(b) inform the assessment commissioner of all new golf course zoning by-laws in the clerk's jurisdiction as they become approved by the Ontario Municipal Board; and of all new

fixed assessment agreements under subsection (1) as they become effective;

(c) send a copy of all golf course zoning by-laws, and fixed assessment agreements under subsection (1), in the municipality to the assessment commissioner as soon as they take effect; and

(d) inform the assessment commissioner of the termination of any golf course agreement made under subsection (1), within 10 days of the effective date of termination.

(4) Where a golf course has a fixed assessment under an agreement made under subsection (1):

(a) the golf course shall be assessed each year as if it did not have a fixed assessment;

(b) for the purposes of Section 302 of The Municipal Act, the fixed assessment shall be deemed to be the ratable assessment;

(c) the treasurer of the municipality shall calculate each year what the taxes would have been on the golf course if it did not have a fixed assessment;

(d) the treasurer of the municipality shall keep a record of the amount of the difference between the taxes payable each year and the taxes that would have been payable if the golf course did not have a fixed assessment, and shall debit the golf course with this amount each year during the term of the agreement and shall add to such debit on the 1st day of January in each year such interest as may be agreed upon on the aggregate amount of the debit on such date;

(e) the assessment commissioner, each year, shall enter on the assessment roll the amount of the fixed assessment as well as the amount of assessment calculated in accordance with this subsection;

(f) the taxes paid on the fixed assessment shall be distributed among the bodies for which the municipality is required to levy in the proportion that the levy for each body bears to the total levy; and

(g) the owner of the golf course may upon reasonable notice to the municipality at any time and from time to time during the life of the agreement pay to the municipality any portion of the taxes and interest that have been calculated by reference to paragraph (d) of this subsection.

(5) Every fixed assessment agreement shall be registered in the registry office or land titles office, as the case may be, in the county in which the golf course or any part thereof is located.

(6) Where levies are apportioned for any purpose, the amount of assessment equal to the difference between the assessment calculated by reference to paragraph (a) of subsection (4), and the fixed assessment shall be treated as if it were exempt from

taxation under Section 3, so long as the agreement remains in force.

(7) When a fixed assessment agreement is for any reason terminated as to the whole of the lands in respect to which the fixed assessment relates and applies, the owner shall,

(a) pay to the municipality the amount debited against the golf course, including the amounts of interest debited in accordance with paragraph (d) of subsection (4), for that period of time commencing with the effective date of commencement of the agreement and ending with the effective date of termination or at the expiration of the 10th year of the agreement, whichever shall first occur; or

(b) require the municipality to purchase the golf course for an amount equal to the fixed assessment.

(8) When an agreement is for any reason terminated as to a part of the land in respect to which the fixed assessment relates and applies, the owner shall,

(a) pay to the municipality that portion of the amount debited against the golf course, including the amounts of interest debited in accordance with paragraph (d) of subsection (4), that is attributable to the portion of the golf course in respect of which the agreement is terminated for that period of time commencing with the effective date of termination or at the expiration of the 10th year of the agreement, whichever shall first occur; or

(b) require the municipality to purchase the part of the golf course in respect of which the agreement terminated for an amount equal to the proportion of the fixed assessment that is attributable to such part.

(9) The payments received by the municipality from the owner of the golf course in respect of subsections (7) and (8), shall be distributed among the bodies for which the municipality is required to levy in the proportion that the levy of each body bears to the total levy.

(10) (a) Any agreement may be terminated on the 31st day of December in any year upon the owner of the golf course giving six months' notice of such termination in writing by registered mail to the municipality;

(b) where the owner of a golf course has a fixed assessment agreement under subsection (1), the agreement shall terminate as to the whole or any part of the land in respect of which the fixed assessment is given when the whole or any such part thereof ceases to be occupied for the purposes of a golf course

(11) Any dispute between the municipality and the owner of the golf course in relation to an agreement under this section shall

be settled by the Ontario Municipal Board and the decision of the Board shall be final.

Draft of Section 31a, Assessment Act

31a — (1) When an agreement for fixed assessment of a golf course, entered into under former golf course fixed assessment agreement provisions of this Act, is terminated and a new agreement entered into, the tax debit and interest thereon accumulated under the terminated agreement shall, at the option of the owner of the golf course, become a debt due on the commencement date of the new fixed assessment agreement but payable under the terms of the new fixed assessment agreement.

(2) All assessments fixed under golf course fixed assessment legislation shall be amended by the municipality on or after 1 January, 1975, but not later than 31 December, 1975, and the amended fixed assessment shall apply for the purposes of taxation in 1976 and thereafter, and the same rights of appeal shall apply as set forth in subsection 11 of section 31, and every owner of a golf course having a fixed assessment agreement shall pay thereunder in 1975 the same taxes as were payable in 1974, and shall be debited in 1975 with the same annual amount as calculated in 1974 with reference to subsection 4, paragraph (d) of Section 31.

APPENDIX 2

The Calculation of a Fixed Assessment

The purpose of a fixed assessment agreement is twofold: to provide an annual amount of taxes that can be paid from the income derived from golf courses, and, simultaneously, to furnish an adequate share of municipal revenue. With these two requirements at hand, the Committee feels that no fixed assessment agreement can be entered upon without serious and meaningful negotiations, and complete cooperation between the golf course owner and the municipality. To this end, the Committee has outlined the following guidelines.

Initially, it must be recognized by both parties that a fixed assessment is a form of tax exemption, and should be justified by some financial need. The Committee firmly believes that the golf course owner must convey to the municipality his reasons for receiving such special consideration in a manner which would reveal, to some degree, the financial status of his operations.

In these negotiations, the underlying principle becomes the property owner's ability to pay. It must be an amount which can be paid from the current income of the golf course and constitute an equitable portion of the golf course's revenue. Under the terms of a fixed assessment agreement, the owner pays taxes on the market value of the building and the lands which they are situated, in the normal manner. Therefore, using the principle of ability to pay, the fixed assessment on remaining land is that amount which, when related to the local mill rate, yields an amount of taxes consistent with the owner's ability to pay.

The Committee recognizes that this procedure is very subjective. It therefore proposes a further method of analysis which should assist both parties in determining the golf course owner's ability to pay.

The Committee feels that there is a distinct relationship between the quality of a course and its ability to pay. Therefore, as a simple means of classification, the Committee suggests that each course within a municipality be scaled using 'replacement cost new' as the unit of measure. This will involve the use of the Robinson formula (See Appendix 3) which would provide an objective measure of golf course owner's ability to pay.

Cooperation at these levels will undoubtedly result in a fixed assessment agreement satisfactory to all.

APPENDIX 3

Replacement Costs of Golf Course Improvements

In arriving at a market value assessment the Committee's studies revealed that the sales approach could be usefully supplemented with the cost approach. To this end, the Committee hired Mr. C. E. Robinson, a golf course architect, who developed a valuation formula to determine the 'replacement cost new' of a golf course. It should be remembered that the land value must be added to this formula to achieve an actual cost figure.

Anyone using the cost approach might find these additional references helpful:

Robinson, C. E., 'Profits on the Green', *Journal of Property Management,* Volume 36, No. 4, July-August 1971, pp. 176-179.

'Building a Golf Course? What Should It Really Cost You?' *The Real Estate Appraiser,* March-April 1971, pp. 27-30.

Golf Course Construction and Cost Estimates

GREENS

(a) Constructed to Royal Canadian Golf Association or United States Golf Association Green Section specifications as per attached cross-section plan.

Cost varies depending on availability of material from 70¢ to 90¢ per square foot.

(b) Constructed without the crushed stone or crushed gravel drainage base but drained with 4″ tile surrounded by crushed stone or gravel and the putting surface covered with a 12″ layer of prepared topsoil 60¢ to 70¢ per square foot.

N.B. (a) Tile usually installed in a herringbone pattern from 12′ to 15′ apart and in trenches 20″ to 24″ deep or may be installed on an intermittent basis depending on soil conditions and contours.

(c) Constructed on a natural site without artificial drainage and with putting surfaces covered with a minimum of 6″ of existing topsoil 30¢ to 40¢ per square foot.

N.B. (b) Sand bunker costs in the immediate green area are considered as part of the green cost as most of the fill for the greens bases is taken from the bunker area.

FAIRWAYS

(a) Prepared by ploughing or deep discing, harrowing, levelling

with plank drag and developing of a fine friable seedbed for maximum rate of high quality seed and fertilizer $425.00 per acre.

(b) Development of natural grass on existing site by light discing, dragging, harrowing for medium rate of seed and fertilizer $175.00 per acre.

FAIRWAY BUNKERS

$1.75 per square yard of sand area.

TEES

(a) Elevated and topsoiled with 8″ of putting green soils mixture 45¢ per square foot of surface area.

(b) Elevated in some cases and covered with 6″ of existing topsoil 25¢ per square foot.

ROUGH

(a) Extending 10 yards along the perimeter of all fairways which have had full surface cultivation with medium fertilizing and seeding — $125.00 per acre.

(b) Secondary rough extending 10 yards beyond rough outlined in (a), developed by light cultivation, seeding and fertilizing — $85.00 per acre.

WATER SYSTEMS

(a) Full automatic hoseless pop-up system for greens, tees and fairways which is controlled electrically or hydraulically from a central point and from secondary points on the course.

6,000 yard course — $120,000.00
6,500 yard course — $125,000.00
7,000 yard course — $130,000.00

(b) Quick coupling hoseless green, tee and fairway system.

6,000 yard course — $52,000.00
6,500 yard course — $55,000.00
7,000 yard course — $58,000.00

(c) Quick coupling green, tee and fairway system with valves at infrequent spacing which require the use of hose to water large areas of the course.

6,000 yard course — $35,000.00
6,500 yard course — $37,000.00
7,000 yard course — $39,000.00

(d) Green and tee system requiring hose — $18,000.00 to $22,000.00

There are always a number of other facilities on a golf course which are constructed out of conventional building materials. Therefore the cost of shelters, bridges, snack bars, etc. can be appraised by established methods.

APPENDIX 4

Provincial Participation in the Purchase of Golf Course Lands

There was a minority opinion in the Committee that official plans and zoning by-laws do not have a long-term or permanent effect on open space land uses, and would not have a long-term effect in preserving the game of golf. In this regard the Ontario Municipal Board has made a number of important statements. For instance, the Board decided in favour of a rezoning application of the Elms Golf Course in December 20, 1960, and stated:

> Undoubtedly it would be a benefit to the community and to the immediate area if the subject lands could be continued in a use which would make them available for enjoyment by the public. To achieve this it would be necessary, of course, for some public authority to acquire them. The Board finds on the evidence that the township is unable to purchase them and that the Metropolitan council has decided it will not make the purchase.
>
> The Board finds further on the evidence that an economic use cannot be made under existing official plan designation and uses permitted under the by-law.

Another decision by the Ontario Municipal Board favours the contention that a long-run or permanent effect in preserving open space can only be achieved by public acquisition. This is from a decision of June 26, 1961, and concerns valley watercourse lands in the District 12 Plan of the Borough of North York:

> Some objection has been made about designating private lands as open space. The plan should specify that where an owner of such lands proposes to make use thereof for a purpose at variance with the designated use, unless the municipality or some other public body wishes to acquire the same for public use, the owner shall be free to apply for an amendment. In my view an owner should not be prevented from using his land merely by zoning it green belt or open space. If land is required for those purposes it should be acquired by the proper authority; otherwise the owner shall be permitted to develop.

The problem of preserving private open space has also been studied by Metropolitan Toronto. At its meeting on April 16, 1971, the Metropolitan Executive Committee requested the Legislation and Planning Committee "to give consideration to recommending legislation or planning procedures which would preclude or limit the redevolpment of golf courses" and instructed the Metropolitan Planning Commissioner and Metropolitan Solicitor to report to the Legislation and Planning Committee on this matter.

In their report of June 1, 1971, the Commissioner and Solicitor state that, "all development control procedures are by definition negative and protective. Experience has also shown that a determined private developer can frequently accommodate such controls in a redevelopment scheme which is economically attractive both to himself and the municipality. If, however, the overriding objective of the Metropolitan Corporation is to be the conservation and preservation of the few remaining major golf courses in Metropolitan Toronto, it is clear that the Corporation will have to play a more positive and imaginative role than it has in the past through long range land use planning and capital programming with respect to public open space generally and the Metropolitan parks system in particular".

From these statements it seems clear that the Government might properly consider some type of acquisition policy for golf courses.

In respect to existing golf courses, the Government could establish a fund to purchase golf courses that are abandoned and offered for sale. In this regard, the Government has already indicated that it is prepared to acquire land for public use. The *Ontario Budget, 1971*, states:

> Ontario Land Acquisition Corporation. In this budget, I have set aside $20 million for a new land bank program by the Province. This will be the initial funding of the new Ontario Land Acquisition Corporation. Its purpose will be to acquire land for future public use, particularly land in and around our urban centres and recreation areas. With such a land bank program, the Province will be in a better position to implement its policies in the areas of regional development, urban development, recreation, transportation and communications and housing. The Corporation will also serve as the vehicle to co-ordinate land use planning and research as well as the land acquisition programs now undertaken in a number of departments. Over the years the Corporation will require greatly increased finances from the Province as it builds up a lage land holding. We intend to set aside the maximum resources possible for this purpose and thereby preserve for future generations of Ontarians an adequate stock of public land in every part of the province.

If the Province does not wish to be the sole acquiring agency, it might consider three other approaches:

1. arranging for financing to the local municipalities at a lower rate of interest;
2. a formula for participation in acquisition with local municipalities; or,
3. a lease-back arrangement on a relatively long-term basis that would make possible the continuous long-term economic use of the lands for golf purposes.

With respect to future golf needs, the Government might establish a program of acquisition of lands suitable for golf use

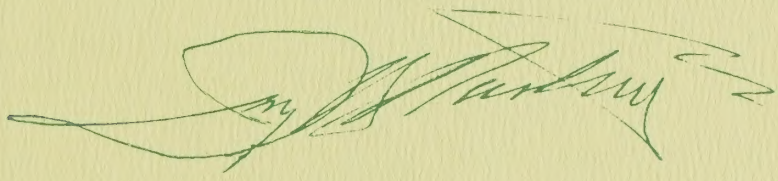
through the Ontario Land Acquisition Corporation. For instance, in the Toronto Centered Region such an acquisition program could be considered an appropriate implementation of the Provincial plan in assuring the non-urban use of lands so designated by the policies of their plan.

In conclusion, it seems clear that the Provincial Government must begin to acquire, or make funds available for municipalities to acquire golf course lands in order that the game of golf will continue as a viable form of recreation accessible to all economic levels of society.

The Committee recommends that:

The Provincial Government strongly endorse the principle of maintaining open space through the establishment of a fund for the public acquisition of lands, including golf course lands, where the need for maintaining open space is clearly demonstrated.

Endorsed by:



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